

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SHARON KEMP,

Plaintiff,

No.:

vs.

AETNA LIFE INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

Defendant Aetna Life Insurance Company (“Aetna”) submits this Notice of Removal for the purpose of removing the above-entitled action from the Second Judicial District Court, Bernalillo County, New Mexico to the United States District Court for the District of New Mexico, and states as follows in support of this removal:

1. Plaintiff Sharon Kemp (“Kemp”) is an individual and a resident of Bernalillo County, New Mexico. *See* Complaint at ¶ 2, a copy of which Aetna has attached to this notice as Exhibit A.
2. Kemp is a former employee of Freddie Mac and a former participant in Freddie Mac’s Long-Term Disability Plan (“Plan”). Exhibit A, ¶¶ 6; 9.
3. Aetna is the claim administrator of long term disability (“LTD”) benefits under the Plan. *Id.*, ¶¶ 4; 9; 12.
4. Aetna is the defendant in a civil action that Kemp filed in the Second Judicial District for Bernalillo County, New Mexico, entitled *Sharon Kemp v. Aetna Life Ins. Co.*, No. D-202-CV-2018-03366. *Id.*

5. Aetna was served with copies of the Summons and Complaint on May 17, 2018, by service on the New Mexico Office of Superintendent of Insurance. *See* notice of service, a copy of which Aetna has attached to this notice as Exhibit B.

6. Kemp alleges that she is entitled to LTD benefits under the Plan, and that Aetna unreasonably denied her claim for LTD benefits. Exhibit A, ¶¶ 8-12; 15; 17.

7. The Plan is part of an employee welfare benefit plan that the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, *et seq.*, governs. *Id.*, ¶¶ 1; 5; *see also* 29 U.S.C. § 1002(1)(A).

8. Kemp has sought relief under ERISA. Exhibit A, ¶¶ 5; 14; 17.

9. Therefore, this Court has original “federal question” jurisdiction over this action pursuant to 28 U.S.C. § 1331 (general federal question jurisdiction provision), and 29 U.S.C. § 1132(e) (ERISA jurisdiction provision).

10. As a civil action founded on a claim or right arising under the laws of the United States, this action is properly removable to this Court pursuant to 28 U.S.C. § 1441(a) and (b).

11. The state court in which this action was commenced is within this Court’s district, and therefore, this action is properly removable to this Court under 28 U.S.C. §§ 1441 (a) and 1446.

12. Aetna will serve and certify service of copies of this Notice of Removal to Kemp as required by 28 U.S.C. § 1446(d).

13. In compliance with D.N.M.LR-Civ. 81.1(a), Aetna will file with the Clerk legible copies of other records and proceedings from the state court action within 28 days after filing this notice of removal.

14. Aetna will file a copy of this notice of removal with the Clerk of the Second Judicial District Court, Bernalillo County, pursuant to 28 U.S.C. § 1446(d). *See* copy of state court notice of removal attached as Exhibit C.

THEREFORE, defendant Aetna Life Insurance Company requests that the above-referenced action pending against it in the Second Judicial District Court of Bernalillo County, New Mexico be removed to this Court, and requests that this Court enter such further orders as may be necessary and proper.

DATED this 7th day of June, 2018.

Respectfully submitted,

HOLLAND & HART LLP

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**ATTORNEYS FOR DEFENDANT AETNA LIFE
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2018 I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the following e-mail addresses:

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/s/ Little V. West

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